

The Honorable Kymberly K. Evanson

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AARON JUSTIN FULK,

Plaintiff,

v.

KEVIN BOVENKAMP,

Defendant.

NO. C24-06014-KKE-MLP

**PRO BONO COUNSEL'S EX
PARTE MOTION REGARDING
SCOPE OF APPOINTMENT AND
ORDER**

Appointed pro bono counsel for Plaintiff Aaron Justin Fulk hereby moves the Court ex parte under LCR 7(d)(1)¹ for an order clarifying the scope of counsel's appointment, and specifically whether the scope of her appointment includes preparation of a summons and service of the summons and Amended Complaint (Dkt. No. 21). Pro bono counsel has no objection to submitting a proposed summons, nor to effectuating service of the summons and Amended Complaint. Included with this Motion, therefore, is a proposed order that would direct pro bono counsel to file a proposed summons and, once a summons was issued, effectuate service.

Plaintiff Aaron Justin Fulk moved for leave to proceed IFP before this Court on December 9, 2024. *See* Dkt. No. 1. The Honorable Michelle L. Peterson granted the IFP application, *see* Dkt. No. 5, but declined to serve Plaintiff's original complaint and afforded

¹ Pro Bono Counsel files this motion "ex parte" insofar as no counsel has appeared for Defendant given the procedural posture of the case; Pro Bono Counsel will

1 leave to amend because the then-named defendant, the Washington Department of Social and
 2 Health Services (“DSHS”), was not a viable defendant, *see* Dkt. No. 7. When Plaintiff did not
 3 submit an amended complaint, Magistrate Judge Peterson issued a report and recommendation
 4 to dismiss Plaintiff’s case without prejudice. *See* Dkt. No. 11. Within days, Plaintiff moved for
 5 appointment of pro bono counsel. *See* Dkt. No. 12. This Court granted in part the report and
 6 recommendation, and it granted in part Plaintiff’s motion to appoint pro bono counsel. *See* Dkt.
 7 No. 13. Specifically, the Court dismissed the complaint without prejudice and noted that it
 8 would “endeavor to appoint pro bono counsel for the limited purpose of amending the
 9 complaint.” *See id.* at 2–3. The undersigned was thereafter appointed on March 24, 2025, for
 10 the limited purpose of assisting Plaintiff with an amended complaint. *See* Dkt. No. 14. Plaintiff
 11 filed his amended complaint on May 23, 2025. *See* Dkt. No. 21.

12 Pro bono counsel’s understanding is that typically, the decision whether to order
 13 issuance of a summons and service of a complaint is made after an IFP is granted. *See* Dkt.
 14 No. 7; *Pro Se Guide to Filing Your Lawsuit in Federal Court* at 13 (July 2024), available at
 15 [https://www.wawd.uscourts.gov/sites/wawd/files/ProSeGuidetoFilingYourLawsuitinFederalCo](https://www.wawd.uscourts.gov/sites/wawd/files/ProSeGuidetoFilingYourLawsuitinFederalCourt.pdf)
 16 [urt.pdf](https://www.wawd.uscourts.gov/sites/wawd/files/ProSeGuidetoFilingYourLawsuitinFederalCourt.pdf). Given that Plaintiff’s IFP was granted, but that the Court initially declined to issue a
 17 summons or direct service, it is not clear to pro bono counsel whether a summons will now
 18 issue without some further action from Plaintiff with the amended complaint now on file, or
 19 whether pro bono counsel should have attached a proposed summons to the Amended
 20 Complaint (as pro bono counsel would typically do in a civil case). In a similar case involving a
 21 limited pro bono appointment, Judge Cartwright ordered the undersigned to effectuate service
 22 in conjunction with filing an amended complaint. *See Webb v. Naphcare Inc.*, Case No. 3:21-
 23 cv-05761-TMC, Order Clarifying Scope of Pro Bono Appointment, Dkt. No. 75 at 2. Because
 24 pro bono counsel has no objection to effectuating service of the Amended Complaint, pro bono
 25 counsel believes that the most efficient course for both Plaintiff and the Court is for pro bono
 26

1 counsel to submit a proposed summons and effectuate service. Once service is effectuated, the
2 undersigned will submit a motion to withdraw as appointed pro bono counsel.

3 DATED this 29th day of May, 2025.

4 TOUSLEY BRAIN STEPHENS PLLC

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Pro Bono Counsel for Plaintiff for a Limited Purpose

12 **ORDER**

13 Pro bono counsel having no objection, and good cause otherwise appearing, it is
14 ORDERED that pro bono counsel will submit a proposed summons within seven days of the
15 date of this Order. Assuming that a summons issues, pro bono counsel will effectuate service of
16 the summons and Amended Complaint in accordance with Federal Rule of Civil Procedure 4.
17 After pro bono counsel has fulfilled the scope of her appointment, she may submit a motion to
18 withdraw.

19 Dated: May 29, 2025

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23 Kymerly K. Evanson
24 United States District Judge
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